

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine O'Connor	Team: Team # 6	CCRB Case #: 200714633	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/05/2007 8:00 PM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 4/5/2009	EO SOL 4/5/2009	
Date/Time CV Reported Sun, 10/07/2007 11:18 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 10/07/2007 11:18 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. CPT Michael Lipetri	00000	906647	NARCBBN
4. LT Joseph Santangelo	00000	887586	NARCBBN
5. DT3 James Delumen	03621	922213	NARCBBN
6. DT3 Shane Killilea	29270	927030	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Jamil Payne	06369	924317	NARCBBN
2. DT3 Matthew Savage	06484	926077	NARCBBN
3. DT3 Vincent Barese	01540	927899	NARCBBN
4. DT3 Robert Livingston	04541	925619	NARCBBN
5. DT3 Andrew Erato	02395	925243	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in Brooklyn.	
B. Officers	Force: Officers pointed their guns at § 87(2)(b) and § 87(2)(b)	
C. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b) and § 87(2)(b)	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E. An officer	Force: An officer tightly handcuffed § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
F. An officer	Abuse: An officer refused to show a search warrant to § 87(2)(b)	
G.CPT Michael Lipetri	Abuse: Capt. Michael LiPetri authorized the strip-search of § 87(2)(b)	
H.DT3 James Delumen	Abuse: Det. James Delumen refused to provide his name and shield number to § 87(2)(b)	
I.DT3 Shane Killilea	Abuse: Sgt. Shane Killilea refused to provide his name and shield number to § 87(2)(b)	
J.LT Joseph Santangelo	Abuse: Lt. Joseph Santangelo authorized the strip-search of § 87(2)(b)	
K. Officers	Abuse: Officers strip-searched § 87(2)(b)	

Synopsis

On October 7, 2007, the CCRB received the complaint of § 87(2)(b) via the Call Processing System. § 87(2)(b) stated that on October 5, 2007 at approximately 8:00pm, he parked his red Toyota Camry in front of his sister's residence at § 87(2)(b) in Brooklyn. He had a male passenger, § 87(2)(b) in his passenger seat, and at the time, another resident of § 87(2)(b) § 87(2)(b) was sitting on the building's front steps. § 87(2)(b) claimed that he was inside his apartment at the time with his friends § 87(2)(b) a male named § 87(2)(b) and an unidentified female. Shortly after parking, officers from the 81st Precinct module of Bronx Narcotics converged on the location to effect a search warrant; several of the officers entered § 87(2)(b)'s residence at § 87(2)(b) § 87(2)(b) and proceeded to search it [**Allegation A**]. Other officers approached § 87(2)(b) and § 87(2)(b) with their guns drawn and pointed [**Allegation B**] and allegedly told both § 87(2)(b) and § 87(2)(b) to "shut the fuck up" and "get out of the car" [**Allegation C**]. § 87(2)(b) also claimed that officers referred to him numerous times as a "motherfucker," as well as used profane language toward him throughout the entire incident. The officers pulled § 87(2)(b) and § 87(2)(b) from the red vehicle, allegedly pushing § 87(2)(b) to the ground [**Allegation D**]. § 87(2)(b) and § 87(2)(b) were all placed under arrest for smoking marijuana together outside the residence prior to the officers' arrival. § 87(2)(b) told the arresting officers that they were free to search his car, at which time, officers including Det. Jamil Payne then proceeded to search the vehicle. Following this, the males were placed inside a prisoner van. § 87(2)(b) alleged that as he was being placed inside the van, he complained that his handcuffs were too tight. At that time, an unidentified officer adjusted them such that they were tightened [**Allegation E**].

Det. Payne then joined the officers who had entered § 87(2)(b) and proceeded to search it for contraband (subsumed in Allegation A). § 87(2)(b) who claimed he was inside his apartment at the time, stated that one of the officers in his residence had their gun drawn (subsumed in allegation B). He also said that he asked an unidentified white male officer to see a copy of the search warrant, but he was never shown it [**Allegation F**]. The prisoners were brought to the 81st Precinct, where § 87(2)(b) was the first individual to be strip-searched under the authority of Capt. Michael LiPetri [**Allegation G**]. § 87(2)(b) claimed it was carried out in a public holding cell area, in view of § 87(2)(b) and other prisoners in the cell area. He also said that officers touched his genitals while they were conducting it. Following this, § 87(2)(b) was taken to the hospital (per the officers interviewed, narcotics were recovered from § 87(2)(b)'s rectal area, and he was taken to the hospital to be examined by a doctor and checked for further contraband.) Nothing was recovered from him at the hospital. § 87(2)(b) claimed that he requested the identifications of the officers who accompanied him to the hospital (identified through investigation as Det. James Delumen and Sgt. Shane Killilea), but they did not provide them [**Allegations H and I**].

§ 87(2)(b) claimed that he and § 87(2)(b) were removed to the 83rd Precinct, not the 81st Precinct. He also said that both he and § 87(2)(b) were strip-searched by unidentified officers in single-person holding cells [**Allegations J and K**]. As it was possible to see into the adjacent cells, § 87(2)(b) and § 87(2)(b) were allegedly able to see each other's searches.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) first filed this complaint over the phone with the CCRB on October 7, 2007 (encl. 8a-c). He was interviewed at the CCRB on October 25, 2007 (encl. 9a-i). He returned to the CCRB to view officer photographs on January 8, 2008

(encl. 10a-§ 87(2)(b) is a § 87(2)(g), § 87(2)(b)

On October 5, 2007 at 7:30pm, § 87(2)(b) was driving in his red Toyota Camry with his sister's nephew-by-marriage, § 87(2)(b) parked across the street from said sister § 87(2)(b)'s house at § 87(2)(b). There, he saw one of his sister's neighbors, § 87(2)(b) sitting on his front stoop of that residence. § 87(2)(b) yelled "Yo, what's up?" to § 87(2)(b) who then rolled his window down and replied by saying, "What's up?" This was the extent of their interaction. § 87(2)(b) and § 87(2)(b) had been sitting in § 87(2)(b)'s car for about one to two minutes when three large, unmarked police vans (one green, another burgundy, and the third white) surrounded § 87(2)(b)'s vehicle. § 87(2)(b)'s car door was open and his vehicle was turned off, but he was still inside the car. He explained that at the time, neither he nor § 87(2)(b) had any narcotics on their persons, nor had § 87(2)(b) exchanged any narcotics with § 87(2)(b) or § 87(2)(b) while on the scene.

Two officers exited the burgundy van and approached § 87(2)(b)'s car. The driver of the burgundy van (PO1) was a white male, about 6'0", with a thin build, dark brown hair, in his early- to mid-30s, who was wearing plainclothes and a baseball cap. The passenger (PO2) was a heavyset, white male, about 6'1", with gray hair, about 40 years old, also wearing plainclothes. (PO1 and PO2's identities were not determined through the course of the investigation.) Approximately four other officers exited from the green and the white vans and immediately approached § 87(2)(b) on his stoop; they did not interact with § 87(2)(b) or § 87(2)(b). Of the four officers who approached § 87(2)(b) could only describe one of them, PO3, a short, white male with a thin build, a receding hairline, in his 40s, also wearing plainclothes. Some of these officers entered the building. (PO3 was not identified through the investigation.) PO1 and PO2 drew their firearms as they approached § 87(2)(b)'s car; PO1 pointed his weapon at § 87(2)(b)'s head, and PO2 pointed his at § 87(2)(b)'s head. PO1 stood next to the open, driver's side door and held his gun approximately one foot from § 87(2)(b)'s head, telling him, "Shut up, shut up. Get out the car." § 87(2)(b) revised his statement to say that PO1 told him to "Shut the fuck up" repeatedly and referred to him as a "motherfucker." He could not specify exactly when these terms were used.) PO1 pulled § 87(2)(b) from the car by his shirt and pushed him up against the side of his car. The impact of the push caused § 87(2)(b)'s pants to fall down, as he had not secured his belt tight enough that day. (In his initial intake statement, § 87(2)(b) claimed that one or more officers pulled his pants down, but denied this during his interview.) An officer on the scene later helped him pull them back up. PO1 handcuffed § 87(2)(b) pointing his gun toward the back of § 87(2)(b)'s head with his other hand. From where he was standing, § 87(2)(b) was able to see PO2 approach the front, passenger side door. While he held his gun about one foot from § 87(2)(b)'s head, PO2 opened the passenger door and grabbed § 87(2)(b)'s sweater. PO2 then forcefully pulled § 87(2)(b) from the car, causing him to land chest-first on the concrete, placed his foot on § 87(2)(b)'s back, and pointed his gun to the back of his head and said, "Don't you fucking move."

§ 87(2)(b) saw PO2 handcuff § 87(2)(b) and then frisk him as he lay on the ground. § 87(2)(a) Gen. Mun. § 50-h(3) did not specify how he was able to see § 87(2)(b) searched and frisked on the ground while he was still on the opposite side of the vehicle.) § 87(2)(b)'s pants were not removed during the search. As PO2 was frisking and searching § 87(2)(b) § 87(2)(a) Gen. Mun. § 50-h(3). PO1 did not frisk § 87(2)(b). When § 87(2)(b) requested to know why he was being arrested, PO1 told him, "Shut up, shut up. Don't say nothing else." § 87(2)(b) explained that § 87(2)(b) and her § 87(2)(b)-old daughter, § 87(2)(b) arrived on scene had approached the officers during the searches. § 87(2)(b) explained that her brother was only parking his car, and PO1 and PO2 told § 87(2)(b) to "Shut up." There were about fifteen to twenty additional neighbors who saw what happened, but § 87(2)(b) did not know any of their names.

After PO1 had finished the search, § 87(2)(b) asked PO1 if he needed to search his vehicle. He told PO1 that there was nothing inside his vehicle, and that he gave him permission to search it, along with the trunk. PO1 told § 87(2)(b) "Oh, I will [search your car]," and then proceeded to do so with PO2 (the investigation later determined that Det. Payne searched the car). § 87(2)(b) stated they searched the entire interior of the vehicle and trunk; nothing was recovered from the car.

PO1 and PO2 then escorted § 87(2)(b) and § 87(2)(b) to the rear of the burgundy van. When § 87(2)(b) asked if he and § 87(2)(b) were going to be released, PO1 told him again to "Shut the fuck up." When § 87(2)(b) complained to PO1 that his handcuffs were too tight, PO1 squeezed the cuffs such that they were made tighter around his wrists. Then, PO2 pushed him into the rear of the van by his shirt while PO1 pushed § 87(2)(b) inside. Neither was seat-belted after they were placed inside the van, but they sat down in the benches which ran along the sides of the van. About five minutes

later, § 87(2)(b) was placed inside the van by an unidentified officer. § 87(2)(b) told them that his wife § 87(2)(b) (identified to be § 87(2)(b) was also arrested, but § 87(2)(b) never saw her at any time during this incident.

PO1 and PO2 got back inside the burgundy van and drove the three males to the 81st Precinct stationhouse. § 87(2)(b) explained that when one first walks into the precinct, there is a large front desk where “the captain” stands. Behind this is a smaller room which is visible from in front of the desk through a window. This smaller room contains two large holding cells (each about eight feet by ten feet), a table, and a fingerprinting machine. Upon their arrival at the stationhouse, PO1 and PO2 brought the three males to the holding cell room behind the desk. § 87(2)(b) was the first, followed by § 87(2)(b) and § 87(2)(b). There were approximately three female inmates sitting in the female holding cell, and about six in the male cell.

§ 87(2)(a) Gen. Mun. § 50-h(3)

§ 87(2)(b) revised his statement to say that all of his clothing was removed for him by PO1; he did not take any items off himself.) Nothing was recovered during the strip search.

PO1 told § 87(2)(b) that he was going to take him to the hospital because he thought “he [had] something on [him].” When § 87(2)(b) said he would not go to the hospital, PO1 grabbed § 87(2)(b)’s shoulder and placed the cuffs back on his wrists. PO1 told § 87(2)(b) that he was going to walk him out of the holding cell room and into the precinct lobby area, despite the fact that he was naked. PO1 started to push § 87(2)(b) out of the holding cell room but § 87(2)(b) resisted, as he was not clothed yet. At this, PO2 said to PO1, “You know what? Put his [clothes] on.” PO1 and PO2 handed § 87(2)(b) his clothing and removed his cuffs again and allowed § 87(2)(b) to dress himself (though he was not given back his pants, only his underwear). § 87(2)(b) estimated that he was naked for about twenty-five to thirty minutes.

At one point while § 87(2)(b) was still naked in the holding cell area, § 87(2)(a) Gen. Mun. § 50-h(3) He then left the holding cell area. After he put his clothing on, PO1 and PO2 escorted § 87(2)(b) out of the precinct and placed him back inside the burgundy van. He was driven to § 87(2)(b) Hospital and brought into the emergency room and handcuffed to a bed. (The investigation determined that Det. James Delumen and Sgt. Shane Killilea accompanied § 87(2)(b) to the hospital; however, it could not be determined whether either interacted with § 87(2)(b) before bringing him to the hospital). § 87(2)(a) Gen. Mun. § 50-h(3)

After the search was completed, § 87(2)(b) was transported back to the 81st Precinct, where he was fingerprinted and photographed. He was then transported to Brooklyn Central Booking.

No officers ever told § 87(2)(b) why he was arrested; he did not know his charges. § 87(2)(b) stated that he requested Det. Delumen and Sgt. Killilea’s names and badge numbers approximately “twenty times” throughout the incident, beginning when he was inside the prisoner van being transported to the 81st Precinct for the first time, up until when he was at the hospital for his cavity search § 87(2)(b) only made this allegation during his in-person statement). Neither provided their identifying information.

A photo interview was conducted with § 87(2)(b) on Jan. 8, 2008 (encl. 10a-yy). The array contained 25 photographs of potential subject officers, as well as filler photos. The subject officer photos were chosen based on information gathered from previous complaints involving search warrant executions by teams that included Capt. LiPetri and Det. Payne (who were identified through the search warrant associated with the present case). As they were compiled prior to the receipt of

documents that confirmed which specific officers were assigned to the October 5, 2007 search warrant, the photo series did not contain photos of Det. Barese or Sgt. Killilea (all of the other members of the warrant execution team were included). § 87(2)(b) identified two subject officers. The first was Capt. Michael LiPetri of Brooklyn North Narcotics. He said that Capt. LiPetri authorized the strip-search inside the 81st Precinct stationhouse, and that he “told other officers [to] take [his] clothes off in front of the other officers and inmates.” (This claim, that a third officer told the two who strip-searched him to carry out the search, was not made in his initial statement to the CCRB.) He also identified Det. James Delumen of Brooklyn North Narcotics, stating that he “point[ed] the gun at [his] head” and said, “Shut the fuck up, you motherfucker” when apprehending him. He searched § 87(2)(b) at the scene of his arrest, and performed the strip-search of § 87(2)(b) inside the 81st Precinct stationhouse. No additional photo viewings were able to be scheduled with § 87(2)(b) after the warrant execution team was identified, as he has permanently relocated to North Carolina and has no plans to return to the New York City area.

Results of Investigation

Victim Statement: § 87(2)(b)

§ 87(2)(b) was interviewed on March 7, 2008 at the § 87(2)(b) (encl. 12a-d), during which time, he also viewed photographs of potential subject officers (encl. 13a-y). § 87(2)(b) is a § 87(2)(b)

§ 87(2)(b) provided the following statement to the CCRB:

On October 5, 2007 at approximately 8:00pm, § 87(2)(b) was in his residence, the § 87(2)(b) apartment at § 87(2)(b) in Brooklyn. On that day and time, § 87(2)(b) was working out in his living room with his friends, § 87(2)(b) and “§ 87(2)(b) (male, full name unknown). There was also an unidentified female in the rear bedroom, who was friends with § 87(2)(b) and § 87(2)(b). § 87(2)(b) had some loose money sitting on a table in the living room, as well as a small bag of marijuana. While he and his friends were working out, § 87(2)(b) heard a loud bang outside. He walked into the rear bedroom where the unidentified female was and looked out a window. He saw a group of approximately four police officers in plainclothes entering the building’s front door. Within a few seconds, the officers opened the front door to § 87(2)(b)’s apartment and entered. § 87(2)(b) did not witness their entry to the apartment, however, after a minute, two officers (PO1 and PO2) came into the bedroom where § 87(2)(b) and the female were, saying “Freeze.” PO1 was a white male in his 30s, about 6’1”, with a “husky” build, brown hair and possibly some facial hair. PO2 was a white male, about 5’10”, with a medium build, brown hair, possibly in his 30s. PO2 had his gun drawn and it was pointed at § 87(2)(b). PO2 instructed § 87(2)(b) to “get down,” so § 87(2)(b) lay face-down on the floor. PO2 handcuffed § 87(2)(b) stood him up, and escorted him to the front room.

PO1 and PO2 went back into the bedroom (where the female still was) and closed the door. § 87(2)(b) stated that he heard conversation from inside the bedroom, but he was unable to make any of it out. In the living room, § 87(2)(b) observed two other police officers, PO3 and PO4, who both looked physically similar to PO2; he could not further describe them. § 87(2)(b) and § 87(2)(b) were still present and in handcuffs. The three males were frisked and searched by PO3 and PO4. During his search, either PO3 or PO4 removed an engagement ring from § 87(2)(b)’s pocket (which he’d been planning on giving § 87(2)(b)). The officer kept the ring and it was never returned to § 87(2)(b). § 87(2)(b) also noticed that the money which had been on the living room table prior to the officers’ arrival was gone. He estimated that approximately \$185.00 was taken in total. (The stolen property allegations made by § 87(2)(b) were forwarded to IAB under log number 09-10120.) During his search, § 87(2)(b) asked either PO3 or PO4 (he could not recall which one) to see a warrant, and the officer told him, “Yeah, I’ll give it to you. Yeah, okay.” He was never shown it. After about five minutes, PO3 and PO4 escorted § 87(2)(b) and § 87(2)(b) outside the building. The three males were placed inside a prisoner van containing other prisoners who § 87(2)(b) could not describe. They were transported to a stationhouse on Knickerbocker Avenue which he believed to be the 83rd Precinct stationhouse; § 87(2)(b) stated that he was surprised that they were not transported to the 81st Precinct, which is located “down the block” from his residence.

When they got to the 83rd Precinct, § 87(2)(b) and some of the other prisoners (including § 87(2)(b) and § 87(2)(b)) were immediately taken to a rear room filled with small, one-person cells. He explained that each cell is separated from those next to it by metal bars, making it possible to see through these separating bars into the adjoining cells. § 87(2)(b) was placed inside one of the small cells, and § 87(2)(b) was placed in the cell to his left. Nobody was placed in the cell to § 87(2)(b)’s right. Then, either PO3 or PO4 (the same one who he had asked to see the warrant) stood in front of § 87(2)(b)’s cell with the cell door open and proceeded to strip-search him. First, he instructed § 87(2)(b) to remove his shirt and pants, and then his shoes. The officer told § 87(2)(b) to hand him his clothing, which § 87(2)(b) did, and then the officers searched the pockets. PO3 or PO4 also instructed § 87(2)(b) to squat down and cough, and § 87(2)(b) complied. While this

was going on, another officer was strip-searching § 87(2)(b) in the next cell over in what appeared to be the same manner. Though § 87(2)(b) was not paying close attention to § 87(2)(b) he did see him hand his clothing over to a different officer. § 87(2)(b) did not know who strip-searched § 87(2)(b). Following this, PO3 or PO4 handed § 87(2)(b) back his clothing and told him to get dressed. § 87(2)(b) did not see any other prisoners being strip-searched aside from § 87(2)(b). He did not know where § 87(2)(b) was during this time. Nothing was recovered from § 87(2)(b) during the strip-search. Following this, they were taken to Brooklyn Central Booking, and § 87(2)(b) was arraigned the following day. He was released following his arraignment, but he did not know with what he was charged.

§ 87(2)(b) stated that he does know § 87(2)(b) but to his knowledge, § 87(2)(b) was not arrested on October 5, 2007. He said that § 87(2)(b) may have been placed inside a different prisoner van than he was, but he never saw § 87(2)(b) while at the 83rd Precinct stationhouse. § 87(2)(b) had no recollection of ever being arrested with § 87(2)(b) on any date. When asked if he was certain that the incident described above occurred on October 5, 2007, § 87(2)(b) stated that he was certain. He was informed by the undersigned that the incident § 87(2)(b) had complained about was separate from the incident which gave rise to his most recent arrest in February, 2008 (the arrest that led to his current incarceration). § 87(2)(b) stated that he understood this, and that he was not referring to the events surrounding his February, 2008 arrest.

§ 87(2)(b) was also shown photographs of potential subject officers during his interview (encl. 13a-y). He indicated that he believed the officer shown in Photo # 2 was PO1 (the officer in this photo was Det. Delumen). He then revised his statement to say that he was certain that it was the officer shown in Photo # 7 who was PO1 (the officer in photo # 7 was a filler photo of an officer not associated with this incident). He also said that he believed the officer in Photo # 4 (identified as Sgt. Daniel Sbarra of Brooklyn North Narcotics) to be PO2 and the officer in Photo # 9 (Det. Andrew Erato of Brooklyn North Narcotics) to be either PO3 or PO4 (the one he asked to see the warrant and who later strip-searched him). He did not recognize any of the other officers shown out of twenty-six total photos.

Attempts to Locate Additional Victims and Witnesses

Numerous attempts were made to get in touch with § 87(2)(b) who § 87(2)(b) indicated as a victim in his testimony. "Please call" letters were mailed to the residence given on his arrest report on November 27, 2007 and on February 3, 2008 with no response; they were not returned to the undersigned as "unable to forward." A check of the Brooklyn Cole directory indicated no phone numbers registered to § 87(2)(b)'s given address, and a subpoena submitted to Verizon Legal Compliance yielded the same result. A Lexis Nexis search for § 87(2)(b)'s address and name had one hit which confirmed the address on § 87(2)(b)'s arrest report, but did not provide a phone number (encl. 58a-e, i). Periodic checks of the New York City Department of Correction inmate look-up database showed that § 87(2)(b) was not incarcerated. On March 11, 2008, the undersigned visited § 87(2)(b)'s residence, but there was nobody home.

The undersigned also made attempts to contact § 87(2)(b)'s girlfriend, who also resided at § 87(2)(b). "Please call" letters were mailed to her residence on February 3, 2008 and February 19, 2008. The letters were not returned to the CCRB, and they elicited no response. Checks of Lexis Nexis and whitepages.com for § 87(2)(b)'s name and phone number came back negative (encl. 58f). A subpoena submitted to Verizon yielded negative results for any phone numbers registered to her address. The NYC DOC inmate look-up determined that she was not incarcerated. During his interview, § 87(2)(b) refused to provide § 87(2)(b)'s phone number. The undersigned visited § 87(2)(b) on March 11, 2008 and knocked on the door of the aforementioned residence, but there was no answer.

§ 87(2)(b) was unable to provide contact information for § 87(2)(b) or § 87(2)(b). Checks of § 87(2)(b)'s name were run through whitepages.com and the DMV database, but there were so many matches that it was deemed impossible to reach out to every person with that name. Due to § 87(2)(b)'s last name being unknown, it was impossible to search for him using the available resources. § 87(2)(b) and § 87(2)(b) were not listed on any of the police documents stemming from this incident, and there was nobody by their names arrested on the date of the incident, per the Booking, Arraignment and Disposition Inquiry System (BADs) and command log entries pertaining to this incident (encl. 50a-m, 52a-b).

With respect to § 87(2)(b) and § 87(2)(b) who § 87(2)(b) stated both witnessed this incident, numerous phone calls were placed to their home phone number (which § 87(2)(b) provided). Between November 13, 2007 and March 10, 2007, five calls were made and two letters were mailed to § 87(2)(b) requesting the cooperation of her and her daughter regarding this investigation. With each of these calls, messages were left either on § 87(2)(b)'s voice mail or with one of her family members. These contact attempts yielded negative results. During a visit to her home on March 11, 2008, the undersigned knocked on her door, as well as the doors of the surrounding residences, but there was no answer on any of them.

On March 11, 2008, the undersigned conducted a canvass of the area surrounding § 87(2)(b) in Brooklyn. Approximately eight buildings in the vicinity surrounding were visited; each of these buildings consisted of two to four separate apartments. Nobody answered the door at any of these residences, and many of them appeared to be abandoned.

Identification of Officers Interviewed

Det. Jamil Payne was identified by name on the arrest paperwork and search warrant associated with this incident (encl. 17a-c). All other officers interviewed—Capt. Michael LiPetri, Lt. Joseph Santangelo, Det. Vincent Barese, Det. Robert Livingston, Det. Andrew Erato, Det. Matthew Savage, Det. James Delumen and Sgt. Shane Killilea—were identified from the Brooklyn North Narcotics warrant pre-execution plan (encl. 43).

Officers' Statements

Det. Jamil Payne, Brooklyn North Narcotics

Det. Payne applied for a **search warrant** for the location of § 87(2)(b) on September 28, 2007 (encl. 17a-c). Det. Payne indicated that the location was suspected of containing drugs and drug paraphernalia, as well as currency and other evidence of proceeds from drug trafficking (i.e., financial records, etc.). On October 5, 2007, Det. Payne made the following entries in his **memo book** (encl. 18a-b): “1600—ERT 81 Pct. 2000—4 under, search warrant at § 87(2)(b). He also completed **arrest reports** for § 87(2)(b) (encl. 19a-b), § 87(2)(b) (encl. 20a-b), § 87(2)(b) (encl. 21a-b) and § 87(2)(b) (encl. 22a-b), each of whom was arrested at § 87(2)(b). § 87(2)(b)'s and § 87(2)(b)'s reports indicate that they were observed in possession of a quantity of marijuana and a controlled substance. § 87(2)(b)'s report indicated the same, and also added that he was charged with possession of marijuana recovered during a search of his residence. § 87(2)(b)'s report stated that she was arrested for marijuana recovered from her residence. All were charged with criminal possession of a controlled substance with intent to sell; additionally, § 87(2)(b) and § 87(2)(b) were each charged with criminal possession of marijuana in a public place. Det. Payne completed a **supporting deposition** for § 87(2)(b)'s arrest (encl. 23a-b), on which he indicated that he recovered three ziplock bags of crack cocaine (voucher number § 87(2)(b) from § 87(2)(b)'s person.

Det. Payne was interviewed at the CCRB on May 2, 2008 (encl. 24a-d). He is a § 87(2)(b). On October 5, 2007, Det. Payne worked from 2:27pm until 11:00pm and he was assigned as the arresting officer for his search warrant team. He worked with a team of several other officers but was not directly partnered with any of them. He was in plainclothes and was assigned by himself to a black, unmarked Nissan sedan. Det. Payne provided the following statement to the CCRB:

On October 5, 2008, Det. Payne and his field team conducted a narcotics-related search warrant at § 87(2)(b) in Brooklyn. Det. Payne had ordered the warrant, and at about 7:00pm, he arrived at the scene to observe the building and surrounding area. He sat in his parked vehicle across the street from the residence, approximately three car lengths away from it. There, he saw § 87(2)(b) (a resident of § 87(2)(b)) sitting outside on his porch. He recognized § 87(2)(b) from observing him on prior occasions, and because § 87(2)(b) was listed as a subject on the search warrant (under the alias § 87(2)(b)) his physical appearance, namely his height at 6'7", confirmed § 87(2)(b)'s identity as the warrant subject). After watching § 87(2)(b) from his vehicle for about half-an-hour, Det. Payne saw a red vehicle containing two males pull up in front of § 87(2)(b)'s house and double-park. He identified the driver as § 87(2)(b) the front passenger was identified through investigation as § 87(2)(b) approached the vehicle and began talk to the two other males; Det. Payne could not hear what they said. After a few minutes, § 87(2)(b) got into the back seat of the red car, and he and the other two males began to smoke marijuana. Though it was dark at the time, Det. Payne's view of the males was illuminated by a bright street light. He was able to conclude that they were smoking marijuana based on his training as a narcotics officer, the appearance of the marijuana cigarette they were passing between them, and the smell of marijuana smoke emanating from the red vehicle which Det. Payne was able to detect. Det. Payne was the only police officer in the vicinity at the time; his other field team members were stationed nearby, but not within view of Det. Payne. The three males remained inside the red vehicle for several minutes.

While this was going on, Det. Payne informed his team of his observations over the radio. About ten minutes after he had started watching the red car, the field team supervisor, Capt. LiPetri, determined to “move in” and begin the warrant execution. To Det. Payne's knowledge, the only officers involved in the execution were the members of his team (which included Capt. LiPetri, Lt. Santangelo, Det. Barese, Det. Livingston, Det. Erato, Det. Savage, Det. Delumen and Sgt. Killilea). Det. Payne approached the red vehicle to arrest § 87(2)(b) and § 87(2)(b) for possession of marijuana. His firearm was holstered, and he never drew it at any point while on the scene. To his knowledge, none of his field team members had their firearms drawn while they were outside § 87(2)(b). Det. Payne said that the majority of the team members went into the residence, though some remained outside to assist him in arresting the three males. He

did not recall which officers assisted him or how many remained outside. Det. Payne instructed the three males to exit the vehicle, which they all did. As the officers neared the car, Det. Payne observed § 87(2)(b) drop the marijuana cigarette he was holding somewhere in the driver's area of the car. Det. Payne first approached § 87(2)(b) (who was in the process of exiting the red car at the time) and put handcuffs on him. § 87(2)(b) was compliant, and Det. Payne did not use any force against him. Once he was cuffed, another of his team members took control of § 87(2)(b) and Det. Payne proceeded to cuff § 87(2)(b) and § 87(2)(b) who had been removed from the car by other officers. Each was compliant and neither he nor his field team members used physical force to effect any of their arrests. At no time did Det. Payne or any other officers use profanity against any of the males while arresting them. As he cuffed the individuals, Det. Payne conducted a "basic frisk over the clothing" to ensure none of them had weapons, which none of them did.

After the three males had been arrested, they remained standing on the scene in the custody of other members of Det. Payne's field team. Det. Payne then searched the red vehicle based on the fact that the males had been smoking marijuana inside of it, and because he had seen § 87(2)(b) discard the marijuana cigarette in the driver's seat area. Det. Payne also stated that he had observed a small glassine bag of what appeared to be heroin sitting on the front passenger seat in plain view. Det. Payne searched the front seat area of the car and recovered both the heroin and the marijuana cigarette. He did not search any other areas of the car, such as the rear seat or trunk. He said that he was the only officer who searched the red vehicle, and the car was driven back to the 81st Precinct and vouchered as evidence, along with the narcotics recovered from within. Following the vehicle search, the three arrested males were placed inside the prisoner van by Det. Delumen and Sgt. Killilea. Det. Payne did not actually see them get placed in the van. None of the officers ever tightened any of the prisoners' handcuffs after they had already been applied.

Once the three males were secured, Det. Payne and the other field team members (with the exception of Det. Delumen and Sgt. Killilea, who stayed with the prisoners), went into § 87(2)(b) to execute the warrant. The apartment within § 87(2)(b) had already been breached by the time Det. Payne got to it, so he entered right away. When he entered, Det. Payne began to thoroughly search the premises along with Lt. Joseph Santangelo. In one of the bedrooms, Det. Payne recovered a quantity of crack, though he could not recall specifically where he found it or how much he recovered. He also observed a female, identified as § 87(2)(b) inside the bedroom where the narcotics were found. He did not interact with § 87(2)(b) and she had already been handcuffed by the time he observed her. § 87(2)(b) was the only civilian inside the residence at the time. Det. Payne never drew his weapon inside the residence, nor did he see any other officers do so. At no time did any individuals request to see a copy of the search warrant, and Det. Payne never showed it to anyone at the scene. After the search the officers left the apartment, and § 87(2)(b) was escorted to the prisoner van.

While Det. Payne was standing outside § 87(2)(b) getting ready to leave, he noticed the prisoner van begin to rock back and forth. He approached the van, along with Det. Delumen and Sgt. Killilea, and they opened the rear doors of the van. At that point, Det. Payne observed § 87(2)(b) standing up in the van with his pants down around his knees; his underwear had not been pulled down. He was also sweating profusely. The officers asked § 87(2)(b) what was going on, and he replied that he was hot. Det. Payne and the two prisoner van officers removed § 87(2)(b) from the van and assisted in pulling § 87(2)(b)'s pants back up, tightening his belt after they did so. They then put him back into the van and both Det. Delumen and Sgt. Killilea got back inside, as well. The prisoner van, along with Det. Payne and Capt. LiPetri then drove to the 81st Precinct stationhouse. (None of the prisoners were taken to the 83rd Precinct.) When they got there, a supervisor (Det. Payne believed it was Capt. LiPetri) authorized the strip-searches of the three male prisoners. § 87(2)(b) and § 87(2)(b) were placed in the communal holding cell behind the main desk while § 87(2)(b) was taken to a private bathroom near the holding cell area. Det. Payne, one of the officers assigned to the prisoner van, and the authorizing supervisor performed the strip-search. Det. Payne said that the cells are visible from the main desk via a large window, but the bathroom is not visible from any other area of the precinct. Nobody was able to see § 87(2)(b)'s strip search aside from the officers performing it because the bathroom door was closed.

Det. Payne instructed § 87(2)(b) to remove his clothing, which he did. At no point did the officers place their hands on his body. None of the officers ever used profanity while strip-searching § 87(2)(b). § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b) was compliant during the strip-search up until he was told to squat down and cough. § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b) When Det. Payne asked him what the object was, § 87(2)(b) stood up and refused to answer them. § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b)

§ 87(2)(b) was told to dress himself, which he did. § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b) "Det. Payne saw that it was crack, so he ordered § 87(2)(b) to drop the item on the floor, at which point one of the officers picked it up with gloves and

vouchered it. § 87(2)(b) was shortly thereafter removed to the hospital (Det. Payne did not recall which one, nor did he know what the extent of § 87(2)(b)'s treatment at the hospital was). Det. Payne did not accompany § 87(2)(b) and remained behind to process the other arrests. Det. Payne said that there is an area in the back of the 81st Precinct of the precinct that contains individual holding cells, where § 87(2)(b) and § 87(2)(b) were removed to the single holding cells so that they could be debriefed regarding their charges. This was the only interaction he had with § 87(2)(b) or § 87(2)(b).

Det. Payne stated that he had a copy of the search warrant on him at the time, and that he was the only member of his field team who had one. At no time did any civilians request Det. Payne's or any other officers' identification. Det. Payne never strip-searched either § 87(2)(b) or § 87(2)(b). When shown the command log entry indicating that they were strip-searched, Det. Payne said that he did not know who performed them or where they were performed. No physical force or profanity was used against any of the individuals arrested at § 87(2)(b).

Capt. Michael LiPetri

Capt. LiPetri of was interviewed at the CCRB on May 7, 2008 (encl. 25a-d). He is a § 87(2)(b). On October 5, 2007, Capt. LiPetri worked from 12:30pm to 10:30pm, including overtime. He was assigned to supervise a search warrant that day and was working with a large field team, but he was not assigned a partner. He believed he was assigned to an unmarked SUV, and he did not recall if any other officers were in that vehicle with him. He stated he does not keep a memo book, and thus had no memo book entries pertaining to this incident. Capt. LiPetri provided similar testimony to Det. Payne with the following exceptions:

Capt. LiPetri stated he was the warrant team's supervisor, and Lt. Santangelo was the team leader; there was no sergeant assigned to the team. Approximately eight officers participated in the warrant.

When Capt. LiPetri arrived outside § 87(2)(b), Capt. LiPetri went back and forth between the arrests being conducted outside the residence and inside the apartment where the search was being conducted. He did not recall if he interacted with any of the arrested males or if he witnessed their apprehension. He did not recall if any officers drew their weapons outside, though he stated he did not remember drawing his own. Capt. LiPetri did not see any of the arrested males get placed inside the prisoner van. Capt. LiPetri stated that members of the field team recovered a marijuana cigarette from inside the red vehicle, but he did not remember if he saw the marijuana cigarette at any point.

Upon entering the residence, Capt. LiPetri mainly stayed in the living room area of the apartment and supervised the officers as they thoroughly searched the premises.

After Capt. LiPetri was informed that one of the male prisoners (identified through investigation as § 87(2)(b)) was observed sweating in the prisoner van with his pants pulled down, he told the officers assigned to the prisoner van (he did not recall who they were) to remove the arrested individuals to the 81st Precinct stationhouse and conduct a strip-search of § 87(2)(b) based on the fact that he had been arrested on narcotics charges (the marijuana recovered from the car) and because he had attempted to remove his pants inside the prisoner van (possibly to conceal narcotics on his person).

When Capt. LiPetri later returned to the 81st Precinct, he entered the prisoner holding cell area bathroom and saw a few unidentified officers from his field team standing with § 87(2)(b) § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b)

§ 87(2)(b) Capt. LiPetri stated that § 87(2)(b) was never in view of any individuals while he was naked aside from those conducting the search.

The male prisoner was taken to the hospital by officers including Det. Delumen, though Capt. LiPetri did not recall who else accompanied him. After viewing the command log entries which indicated that two other males § 87(2)(b) and § 87(2)(b) were strip-searched, Capt. LiPetri stated that he did not make the entries and did not know who authorized them in the log. Capt. LiPetri stated that during search warrant executions, he typically keeps a copy of the warrant with him, but he did not recall if he had a copy of the warrant executed on October 5, 2007. Capt. LiPetri had no recollection of any civilians asking him to see a copy of the search warrant.

Lt. Joseph Santangelo, Brooklyn North Narcotics

On October 5, 2007, Lt. Santangelo made the following entry in his **memo book** (encl. 30a-b): "Search warrant § 87(2)(b) (time unknown)."

Lt. Santangelo was interviewed at the CCRB on April 30, 2008 (encl. 31a-d). He is a § 87(2)(b). On October 5, 2007, he worked from 9:30am until 6:05pm, and worked an unknown amount overtime that evening. He was assigned to supervise a field team executing a search warrant. Members of his field team that day consisted of the 81st Precinct module. He was in plainclothes and was assigned to an unmarked car he could not describe. He did not recall who, if anyone was assigned to the vehicle with him. Lt. Santangelo provided similar testimony to the other officers noted above with the following exceptions/additions:

When Lt. Santangelo first arrived in front of § 87(2)(b) he noticed that the side of the building was not covered. He went to the side of the building by himself and monitored the areas underneath the windows (to ensure nobody tried escaping or throwing evidence from them). After a few minutes, he heard over the radio that the residence was secured. Lt. Santangelo went back to the front of the house, where he saw some unidentified members of his field team standing by the prisoner van with several males in handcuffs (including § 87(2)(b)). Lt. Santangelo had not heard or seen any verbal or physical interaction between the other officers and any civilians up to this point.

Lt. Santangelo went inside the residence and met up with the remainder of his team, who had already begun the search. All of the officers inside had their guns holstered, and he did not draw his own. Lt. Santangelo stated that he showed a copy of the warrant to § 87(2)(b) who was the only person inside. He never refused to show the warrant to any civilians, though none asked to see it.

Lt. Santangelo did not interact with any of the prisoners while at the 81st Precinct. Lt. Santangelo said that he believed he may have authorized the strip-searches of § 87(2)(b) and § 87(2)(b). The reason for authorizing these strip-searches was because all of the arrested males had been observed in possession of marijuana (per Det. Payne), and narcotics had been recovered on their property. Lt. Santangelo stated that he was not present when any of the arrested individuals were strip-searched.

Note: On June 9, 2009, the undersigned contacted the NYPD Employee Verification Unit, at which point it was determined that Lt. Santangelo retired from the NYPD on May 22, 2009.

Det. Robert Livingston, Brooklyn North Narcotics

Det. Livingston was interviewed at the CCRB on December 10, 2008 (encl. 37a-c). Det. Livingston is a § 87(2)(b). On October 5, 2007, he worked from 3:27pm to 12:00am the following morning. He was assigned to execute a search warrant with his field team. He was assigned to an unmarked vehicle, and he did not recall if any other officers were assigned to his car with him. He did not have any memo book entries pertaining to this incident (encl. 36a-b), and he provided similar testimony to Det. Payne and Capt. LiPetri with the following exceptions and additional information:

§ 87(2)(e), § 87(2)(f)

§ 87(2)(b). Upon arrival at the location, Det. Livingston and Det. Barese approached the red vehicle, which contained § 87(2)(b) and § 87(2)(b). Other than Det. Barese, Det. Livingston did not recall if other officers approached the red car. Det. Livingston did not recall if there were any other civilians present nearby.

Det. Livingston approached the passenger side of the red car with Det. Barese and they both removed § 87(2)(b) (identified through investigation). They identified themselves as officers and instructed him to exit, which he did. Then, either Det. Livingston or Det. Barese applied handcuffs. There was a second male sitting in the driver's seat (who Det. Livingston identified as § 87(2)(b) who was also removed from the car, but he did not recall which officers removed § 87(2)(b)). Det. Livingston's firearm remained in its holster; no officer ever pointed their weapon at the driver's or passenger's heads. No force was used by any officers while removing the males from the vehicle. No officers ever used profanity against either male.

The two males were frisked and searched incident to their arrests; nothing was recovered from their persons. Det. Livingston and Det. Barese then escorted § 87(2)(b) to the van while other unidentified members of their team brought § 87(2)(b) over. Once they were brought to the van, Det. Delumen and Sgt. Killilea placed both males inside and secured

them. Shortly after, Det. Livingston noticed the prisoner van shaking, and observed as the prisoner van officers opened the doors and dealt with § 87(2)(b) but he did not assist them. Det. Livingston never entered § 87(2)(b)

Back at the stationhouse, the prisoners were taken to the arrest processing area, where they were strip-searched by other officers from his team. Det. Livingston stated he conducted administrative work in the muster room after returning to the 81st Precinct. The arrest processing area was not within Det. Livingston's view, and he had no interaction with any of the prisoners at the 81st Precinct.

Det. Vincent Barese, Brooklyn North Narcotics

On October 5, 2007, Det. Barese made this **memo book** entry (encl. 34a-b): "2000—search warrant executed."

Det. Barese was interviewed at the CCRB on December 11, 2008 (encl. 35a-c). He is a § 87(2)(b) § 87(2)(b) On October 5, 2007, he worked from 2:27pm to 11:00pm and was assigned to execute a search warrant. He was in plainclothes, but was wearing a bullet-proof NYPD vest and helmet. He was assigned to an unmarked vehicle with Det. Livingston. He provided similar testimony to Det. Livingston with the following exceptions and added information:

After arriving in front of § 87(2)(b) an unidentified officer on the scene directed that both males in the red car be placed under arrest. Det. Barese placed handcuffs on one of the males from the car while Det. Livingston handcuffed the second male; he did not recall who cuffed whom, nor could he identify either male from the car. Det. Barese said that his firearm remained holstered throughout the incident; he never saw any other officers draw their weapons.

Det. Barese brought both § 87(2)(b) and § 87(2)(b) to the prisoner van himself, but he did not place them inside (this was done by Det. Delumen and Sgt. Killilea). At no time did Det. Barese enter § 87(2)(b) At one point while he was on the scene, he noticed the prisoner van shaking, but he never found out what caused it, nor did he see any officers open the doors of the van after it started shaking.

When he got back to the stationhouse, Det. Barese began doing paperwork pertaining to a different case. He did not see any of the prisoners at the stationhouse, nor did he interact with any of the prisoners there.

Sgt. Shane Killilea, Brooklyn North Narcotics

On October 5, 2007, Sgt. Killilea made the following entries in his **memo book** (encl. 26a-b): "1800—buy is negative; tac § 87(2)(b) 2000—search warrant executed. 2100—ERT 81 Precinct. 2108—arrived. 2230—ERT § 87(2)(b) with one male. 0300—ERT BCB. 0420—ERT Brooklyn North Narcotics."

On September 25, 2008, Sgt. Killilea was interviewed at the CCRB (encl. 27a-d). He is a § 87(2)(b) § 87(2)(b) Sgt. Killilea had the rank of "Police Officer" (PO) on the date of the incident. On October 5, 2007, Sgt. Killilea worked from 3:33pm to approximately 4:20am the following day, including overtime. He was assigned to a field team executing a search warrant; Sgt. Killilea was assigned to the prisoner van, described as a red vehicle, RMP number 7380, with Det. James Delumen; Sgt. Killilea was the van's operator. Sgt. Killilea was in plainclothes that day. He provided similar testimony to the above officers with the following exceptions:

After receiving the signal to "move in," Sgt. Killilea drove to § 87(2)(b) he was alone in his van at the time and did not recall where Det. Delumen was. He exited the van and stood by the back of it, waiting for prisoners to be brought over, and also standing watch over his team's vehicles to ensure they were secure. He did not have any verbal or physical interaction with any civilians outside § 87(2)(b) nor did he see any members of his field team verbally or physically interact with them. Sgt. Killilea stated that he did see a red vehicle double parked outside the location, but he never approached the vehicle, and he did not know if there were any occupants inside this vehicle. He said that he never saw any officers with their guns drawn while they were outside that location, and he did not draw his own gun, either.

Sgt. Killilea did not see his team enter the location. He stood by his van for about five to ten minutes, at which time his team members began bringing prisoners to the van. Sgt. Killilea placed them inside the van with the assistance of other officers he could not identify. He did not interact with the prisoners while placing them in the van. He denied that he or any other officers ever tightened their handcuffs.

After observing § 87(2)(b) sweating with his pants down in the van, Sgt. Killilea removed § 87(2)(b) from the van and helped him pull his pants back up. Capt. LiPetri instructed Sgt. Killilea and Det. Delumen to transport the prisoners to

the 81st Precinct stationhouse. Sgt. Killilea got into the driver's seat of the van, and Det. Delumen entered the passenger seat and they drove back to the stationhouse with the prisoners. Neither Det. Delumen nor Sgt. Killilea used any profanity toward any of the prisoners.

Sgt. Killilea's account of the events surrounding § 87(2)(b)'s strip-search was consistent with Det. Payne's, and he said he was present when it occurred, along with Det. Delumen. They were the only officers who witnessed § 87(2)(b)'s strip-search. § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b)

§ 87(2)(b). Sgt. Killilea observed the item while it was on the floor, and he described it as a clear plastic bag containing several "twists" (glassine bags) of what looked to be crack rocks. Shortly after the ambulance arrived, § 87(2)(b) was placed inside, and Det. Delumen rode with him in the ambulance to the hospital. Sgt. Killilea followed behind them in the prisoner van. While at the hospital, Sgt. Killilea said that he and Det. Delumen made small talk with § 87(2)(b). At one point, § 87(2)(b) asked for Sgt. Killilea's name, which he provided. Sgt. Killilea did not recall if § 87(2)(b) asked Det. Delumen for identification. At no point did either Sgt. Killilea or Det. Delumen use profane language toward § 87(2)(b) at any point during this incident. After "a couple of hours," § 87(2)(b) was x-rayed, and then examined by a doctor, who informed Sgt. Killilea and Det. Delumen that nothing was recovered from § 87(2)(b) during his exam.

Sgt. Killilea never entered § 87(2)(b); he remained outside for the duration of the search. Sgt. Killilea stated that he did not participate in any other prisoners' strip-searches aside from § 87(2)(b)'s.

Det. James Delumen, Brooklyn North Narcotics

On October 5, 2007, Det. Delumen made the following entries in his **memo book** (encl. 28a-b): "1930—En route to § 87(2)(b) regarding a search warrant. 2000—4 under at above location. 2020—En route to the 81st Precinct. 2200—En route to § 87(2)(b) Hospital with hospitalized prisoner. 2300—En route to the 81 with above prisoner. 0310—At above with above. 0320—En route to Brooklyn Central Booking."

Det. Delumen was interviewed at the CCRB on April 9, 2008 (encl. 29a-d). He is a § 87(2)(b). On October 5, 2007, he worked from 3:27pm until 12:00am the following day. He and his field team were assigned to execute a search warrant that day, and Det. Delumen was assigned to the prisoner van, a red, multi-passenger Ford; he did not recall whether he or another officer operated the van. He was in plainclothes, but was wearing a navy blue raid jacket with the NYPD logo on it. Det. Delumen provided similar testimony to the other members of his team with the following exceptions/additional information:

Det. Delumen did not recall who was inside the prisoner van with him when he got to the scene. Upon his arrival, Capt. LiPetri instructed Det. Delumen and other officers to arrest approximately three individuals standing on the steps of § 87(2)(b). Det. Delumen did not know why the individuals were placed under arrest. Det. Delumen approached one of these individuals on the steps of § 87(2)(b) (a male who he could not identify or describe) and handcuffed him; other members of his team (he did not recall who) did the same to the other individuals on the steps; the officers then escorted the prisoners to the van.

At some point during or after the time Det. Delumen was arresting the male on the steps of § 87(2)(b) another officer on his field team (he did not know who, though he believed it could have been Det. Payne) approached a red vehicle containing § 87(2)(b) and § 87(2)(b) (Det. Delumen was able to identify § 87(2)(b) by name; § 87(2)(b) was identified through the investigation.) Det. Delumen saw the arresting officer tell the occupants to exit the vehicle. He knew that both § 87(2)(b) and § 87(2)(b) were arrested, but he did not witness their arrests. Det. Delumen believed that he placed § 87(2)(b) and § 87(2)(b) inside the prisoner van, but did not know if anyone assisted him. Neither Det. Delumen nor any other officer adjusted § 87(2)(b)'s handcuffs such that they were tighter on his wrists. Det. Delumen stated that he never entered § 87(2)(b) nor did he see any other officers enter the building.

At the stationhouse, § 87(2)(b) was brought into the cell area bathroom while Det. Delumen stood outside it with the other three prisoners. While in the cell area, § 87(2)(b) was strip-searched. Det. Delumen remained standing outside the cell area with the other arrested individuals. As the bathroom was not visible from outside the room where Det. Delumen and the other prisoners were standing, he was unable to see what occurred during the strip-search. No other prisoners were present in the area where § 87(2)(b) was being strip-searched. Capt. LiPetri instructed Det. Delumen and Sgt. Killilea to transport § 87(2)(b) to the hospital to be examined by a doctor (due to a quantity of narcotics being recovered from his anus). Det. Delumen's account of the events that occurred at the hospital was consistent with Sgt. Killilea's statement.

Det. Matthew Savage, Brooklyn North Narcotics

Det. Savage was interviewed at the CCRB on September 25, 2008 (encl. 39a-c). He is a § 87(2)(b). On October 5, 2007, Det. Savage worked from 3:27pm to 2:00am the following morning (including overtime). He was assigned to bunker duty on a search warrant that day (which entailed making the first entry to an apartment and carrying a body shield). He was working with a field team, and did not recall who he was partnered with. He was in plainclothes and was assigned to a white van. Det. Savage did not have any relevant memo book entries (encl. 38a-b), and he provided similar testimony to the rest of his field team with the following exceptions/additions:

Upon his arrival at the location, Det. Savage passed by the individuals standing outside § 87(2)(b) and immediately went upstairs to the second floor; he was either the first or second officer to reach the front door to the residence. At the time, he was carrying his bunker shield and a .9mm Smith and Wesson firearm. His reason for having his firearm drawn was because they were making a blind entry to the apartment where anybody inside could be armed and possibly dangerous. Det. Savage stated that the door to the § 87(2)(b) apartment was open, so they did not have to enter forcibly. Upon entry, Det. Savage moved throughout the rooms and ensured that the premises were safe. He and his field team found one female (identified through investigation as § 87(2)(b) in the apartment. Other than commanding that the female put her hands up, he did not have any interaction with her. § 87(2)(b) was handcuffed as per search warrant procedure; he did not recall who applied her cuffs. Det. Savage then continued to move throughout each of the rooms and secure the premises. Following this, Det. Payne entered and thoroughly searched the apartment while Det. Savage he stood in the hallway outside to keep the premises clear.

After he went back outside, Det. Savage did not verbally or physically interact with any of the handcuffed prisoners standing by the prisoner van. He had not seen any of them get handcuffed. Det. Savage was unaware whether any of the prisoners in the van demonstrated any erratic behaviors. When he got back to the stationhouse, Det. Savage began doing paperwork; he did not personally interact with any of the prisoners. He stated that he did not assist in strip-searching any of the prisoners and was unable to comment on the circumstances surrounding the strip-searches.

Det. Andrew Erato, Brooklyn North Narcotics

On October 5, 2009, Det. Erato made the following entries in his **memo book** (encl. 32a-b): “1527—Present for duty, assigned to a search warrant. 1400—End of tour.”

Det. Erato was interviewed at the CCRB on November 25, 2008 (encl. 33a-c). He is a § 87(2)(b). On October 5, 2007, Det. Erato worked from 3:27pm to 4:00am the following day including overtime, and he was assigned to execute a search warrant. He was assigned to an unmarked SUV with Capt. LiPetri. He provided testimony similar to the rest of his team members with the following exceptions and additions:

Det. Erato did not recall the substance of the radio transmission he received from Det. Payne prior to the warrant execution, only that it involved a vehicle. When they got to the location, Det. Erato observed the stopped vehicle that Det. Payne had mentioned over the radio in front of § 87(2)(b) he did not remember if he saw members of his team placing any individuals under arrest at the scene.

Det. Erato stood in front of the building and ensured that nobody entered or exited it. He observed unidentified members of his team place some individuals inside a prisoner van. He did not know how many individuals were arrested, nor did he witness their apprehensions. Det. Erato did not escort these individuals or otherwise interact with them. Det. Erato never drew his own firearm, nor did he see any other officers present do so.

After the search was completed, Det. Erato entered the residence briefly to assist in bringing police equipment from the residence back to the cars. There were no civilians inside at the time. He and his team then left the location for the 81st Precinct stationhouse. At no point did Det. Erato hear any individuals at the scene request to see a copy of the search warrant; he did not recall if he had a copy of the warrant on him. Det. Erato never saw or interacted with any of the individuals arrested at § 87(2)(b) while he was at the stationhouse. He did not know if these individuals were strip-searched and he never witnessed any of them without their clothes on at any time.

Det. Erato stated that he has executed more than one warrant at § 87(2)(b) that involved § 87(2)(b) as a subject. He did not recall the date of the other search warrant. While he believed his CCRB testimony reflected the events of October 5, 2007 were accurate, he admitted that he could have mixed up the specifics of the warrant executions.

Medical Records

§ 87(2)(b) was treated at § 87(2)(b) Hospital on § 87(2)(b) (encl. 40a-o). His record indicated, as per police, that he § 87(2)(a) Gen. Mun. § 50-h(3), § 87(2)(b) § 87(2)(b) was alert and oriented and had no acute distress. He denied any abdominal discomfort. He was examined by Dr. Wilfrid Gabriel and had an X-ray taken of his abdomen. No foreign objects were visible from the x-ray and his rectal exam yielded negative results.

NYPD Documents

The **search warrant** (encl. 17a-c, 41a-b) obtained for § 87(2)(b) indicated that the search of the premises was to be executed “without prior notice of authority or purpose,” and indicated that it only applied to the second floor apartment at the location. The warrant also permitted the search of § 87(2)(b),” the primary tenant of § 87(2)(b) § 87(2)(b) was described as a black male, approximately 6’5” to 6’7”, approximately 180 lbs., and 25 to 30 years in age (identified through investigation to be § 87(2)(b). According to the **search warrant pre-execution plan** (encl. 43), Det. Payne was assigned as the arresting officer, Capt. LiPetri as the team supervisor, and Lt. Santangelo was the team leader. Other officers assigned to the team were Det. Savage, Det. Delumen, Sgt. Killilea (listed as PO Killilea at the time), Det. Andrew Erato, Det. Robert Livingston, and Det. Vincent Barese, all assigned to the 81st Precinct module of Brooklyn North Narcotics. The Brooklyn North Narcotics 81st Precinct module **roll call** (encl. 44a-d) confirmed that these were the only officers in that module who were working at the time of the incident (all other officers on the roll call had different tours or were not working that day). The **movement log** for that module (encl. 45) is consistent with the other documents obtained from Brooklyn North Narcotics. There were no **stop, question and frisk reports** (encl. 42a-b) or **SPRINT reports** generated as a result of this incident. The 81st Precinct **command log** (encl. 50a-m) shows that § 87(2)(b) and § 87(2)(b) were arrested at 8:00pm on October 5, 2007. They were not entered in the log until 11:30pm that day, and all with the exception of § 87(2)(b) were taken to Brooklyn Central Booking at 1:35am the following morning. § 87(2)(b) was transported to the hospital at 12:05 on October 6, 2007, and then to Brooklyn Central Booking at 3:00am that day. § 87(2)(b) and § 87(2)(b) each have strip-searches noted in their entries, and all were in apparently normal condition. Nobody by the name § 87(2)(b) is listed in the command log for October 5, 2007. The **prisoner holding pen roster** (encl. 51a-i) is consistent with the information in the command log. **Property vouchers** were completed for each of the individuals arrested at § 87(2)(b) § 87(2)(b) had vouchered three “twists” of crack cocaine (field tested positive for narcotics), \$145.00 in US currency, and two cell phones (encl. 46a-c). § 87(2)(b) had vouchered one marijuana cigar, and a straw with cocaine residue inside (encl. 47). § 87(2)(b)s vouchers listed two Ziploc bags of marijuana (which field tested positive for narcotics), two Ziplocs of crack cocaine (also field tested positive), and a set of keys (encl. 48a-b). Finally, the vouchers for § 87(2)(b) showed that she had several keys and mail with her name on it vouchered (encl. 49a-c). A **vehicle invoice** (encl. 46d) was completed pertaining to this incident, as well, in association with § 87(2)(b)s arrest. The vehicle was a red Toyota Camry, license plate number § 87(2)(b), North Carolina plates. It was seized from in front of § 87(2)(b) and the narrative indicated that the “vehicle was vouchered for forfeiture, as it was used to transport a quantity of a controlled substance.”

The investigation experienced a delay in the time it took to receive documents from the 81st Precinct (the command log and prisoner holding pen roster). In addition to providing the information above, these documents were also requested such that the other individuals in the holding pen at the time § 87(2)(b) was allegedly strip-searched in public could be identified as potential witnesses for this case. Between November 27, 2007 and September 25, 2008 several requests were sent to IAB, and twice, these documents were lost in transit (encl. 60vv-ww). They were eventually forwarded to the undersigned on December 20, 2008 (encl. 60xx).

§ 87(2)(c), § 87(2)(b)

Civilian and Officer CCRB Histories

The present complaint is the first and only one filed by § 87(2)(b) (encl. 7). Capt. LiPetri, who has worked with the NYPD for 14 years, had one substantiated allegation filed against him with the CCRB in case number 200201651 for making a discourteous remark. The CCRB recommended charges and the NYPD imposed a command discipline – A (encl. 3). Sgt. Killilea, who has eight years tenure with the NYPD, received charges for issuing retaliatory summonses (200301499). He pleaded guilty and forfeited seven vacation days (encl. 5). Det. Delumen had one substantiated allegation during his 10 year tenure with the NYPD for entering and searching premises (200003690); the NYPD has not issued a

disposition for this allegation (encl. 4a-b). Lt. Santangelo has not had any substantiated allegations filed against him in his 23-year NYPD career. Additionally, as of May 22, 2009, Lt. Santangelo has retired from his position, as per the NYPD Employee Verification Unit.

Conclusions and Recommendations

Officer Identification

Numerous members of the field team admitted to entering and searching the apartment at § 87(2)(b) under the stipulations of a search warrant issued by the New York Criminal Court. Therefore, an abuse of authority allegation is being pleaded against “officers” for this allegation.

The identities of specific subject officers are difficult to determine due to the fact that both § 87(2)(b) and § 87(2)(b) provided implausible accounts regarding which officers engaged in which actions. According to § 87(2)(b) he only had direct interaction with two police officers, and he attributed all of the allegations (with the exception of one discourteous comment made at the 81st Precinct) to them. In addition, he identified Det. Delumen from his photo as the officer who pointed his gun at him, called him a “motherfucker” at § 87(2)(b) and later strip-searched him at the 81st Precinct (though § 87(2)(b) did not note this during his photo interview, based on his prior statement, it can be inferred that § 87(2)(b) was referring to the same officer who tightened his handcuffs and accompanied him to the hospital). The evidence obtained in this case, however, indicated that it was not the same two officers who dealt with § 87(2)(b) throughout the incident. Det. Livingston and Det. Barese admitted to being the officers who apprehended § 87(2)(b) from his car, while Det. Delumen denied interacting with any of the vehicle occupants at that time. He and Sgt. Killilea stated they did not take custody of § 87(2)(b) until he was placed inside the prisoner van. Det. Delumen’s identification is further obscured by the fact that § 87(2)(b) identified him as the driver of the prisoner van, but the officers’ statements indicate that Sgt. Killilea operated the vehicle. As such, there is reason to doubt § 87(2)(b)’s photo identification of Det. Delumen, as well as his claim that Det. Delumen and his partner (Det. Killilea) engaged in all of the allegations (aside from the above mentioned discourtesy). What is more, this gives reason to doubt § 87(2)(b)’s identification of Sgt. Killilea as the second officer with whom he interacted throughout the incident. It is possible that, after having sustained contact with Sgt. Killilea and Det. Delumen both inside the red prisoner van and at the hospital, these two officers stood out in § 87(2)(b)’s mind more readily than the others who were involved, leading § 87(2)(b) to misattribute allegations carried out by other officers to Det. Delumen and Sgt. Killilea. That § 87(2)(b) now lives in North Carolina makes it impossible for him to view additional photos of potential subjects identified through the investigation, but the evidence indicates that Det. Delumen or Sgt. Killilea did not interact with § 87(2)(b) or § 87(2)(b) until they had already been apprehended and handcuffed.

As noted, Det. Livingston and Det. Barese admitted to being the officers who approached the red vehicle while § 87(2)(b) and § 87(2)(b) were still inside. Det. Payne also said he approached the car, though he dealt primarily with § 87(2)(b). Det. Livingston claimed he handcuffed the front passenger § 87(2)(b) whom he was able to distinguish from § 87(2)(b). Det. Barese could not recall which male he handcuffed, but he stated that he also approached the passenger side and dealt primarily with § 87(2)(b) (which goes against § 87(2)(b)’s claim that an officer approached the driver’s side of the vehicle). Det. Payne stated that he handcuffed all three of the males associated with the red vehicle § 87(2)(b) and § 87(2)(b) after they had been secured by himself and other members of his team. Given the lack of agreement between these officers as to who specifically dealt with which prisoner, along with § 87(2)(b)’s unreliable identifications, it is unknown which officers § 87(2)(b) was referring to when he claimed officers pointed their weapons, used profanity toward them and used force against § 87(2)(b). As such, force and discourtesy allegations are being pleaded against “officers” and “an officer.” A force allegation is being pleaded against “an officer” with respect to § 87(2)(b)’s allegation that his handcuffs were tightened; the identity of this officer remains inconclusive given § 87(2)(b)’s questionable identification and the fact that this allegation occurred when custody of § 87(2)(b) was being transferred from his apprehending officer to the officers assigned to the prisoner van.

Capt. LiPetri admitted to authorizing § 87(2)(b)’s strip-search, so an allegation of abuse of authority is being pleaded against him. Capt. LiPetri denied authorizing any strip-searches other than § 87(2)(b)’s. Lt. Santangelo, the other supervising officer on the scene, admitted that he likely authorized those of the other prisoners, so an abuse of authority allegation is being pleaded against him with respect to § 87(2)(b)’s search. Because the evidence (discussed below) indicates that no male by the name § 87(2)(b) was strip-searched with respect to this incident, it cannot be pleaded against a specific officer. As such, § 87(2)(b)’s claim that § 87(2)(b) was also strip-searched is being pleaded against “officers.”

§ 87(2)(b) identified Det. Delumen from his photograph as the officer who used profanity against him during his strip-search. As noted above, § 87(2)(b)'s identification of this officer was not reliable, as he attributed allegations to him that he was not present for. While Det. Delumen did admit to assisting in § 87(2)(b)'s strip-search, Sgt. Killilea and Det. Payne did as well, and being that § 87(2)(b) had no chance to view Sgt. Killilea's photo, this subject officer's identity was not verified. Additionally, § 87(2)(b) did not identify the officer who told him, "Yeah, motherfucker. We got a warrant to take your ass to the hospital and check your asshole out" following his strip-search. § 87(2)(b) described this officer as a short, white male, possibly in his 40s, with a receding hairline. The only officers whose pedigree came remotely close to this were Lt. Santangelo, Capt. LiPetri and Det. Delumen, and not one of them fit each of § 87(2)(b)'s descriptive criteria. Being that no officers admitted to this, and because additional photo viewings are not possible, this officer's identity could not be ascertained. Discourtesy allegations for these comments are being pleaded against unidentified officers and are subsumed in the above discourtesy allegation against "officers."

There is no evidence that supports any part of § 87(2)(b)'s testimony, aside from his allegation that his apartment was entered and searched and that he was later strip-searched (though the circumstances of the latter allegation are disputed). His version of the incident is highly discrepant from those of § 87(2)(b) and the officers. Furthermore, being that more than one search warrant has been carried out at § 87(2)(b)'s residence; it is probable he confused the circumstances of the present incident with a different one (though § 87(2)(b) asserted this was not the case). Although he identified Det. Erato from his photo as the officer who refused to show him his search warrant, Det. Erato denied entering the apartment or interacting with § 87(2)(b) while the search was being conducted. He also admitted to being present during the execution of a different search warrant at § 87(2)(b) furthering the notion that § 87(2)(b) could have confused this incident with another. Being that the evidence obtained negates the majority of § 87(2)(b)'s testimony, his identification of the subject officer is not reliable, and an abuse of authority allegation is being pleaded against "an officer." Similarly, § 87(2)(b) claimed that when officers entered his apartment, they had their weapons drawn and pointed them at him. He could not identify these officers, and while Det. Savage admitted to having his gun drawn upon entry, he denied that § 87(2)(b) was in the apartment at the time. Det. Savage's account is supported by § 87(2)(b) who claimed that § 87(2)(b) was in front of his building rather than inside his apartment at the time of the entry. Therefore, the allegation guns were pointed at § 87(2)(b) is being pleaded against "officers," and is being subsumed in the gun point allegation pertaining to § 87(2)(b) and § 87(2)(b).

In spite of § 87(2)(b)'s doubtful officer identifications, both Sgt. Killilea and Det. Delumen admitted to driving § 87(2)(b) in the prisoner van and to being the officers who accompanied § 87(2)(b) to the hospital. This was confirmed by other officers interviewed and through the command log. Therefore, allegations of abuse of authority are being pleaded against them pertaining to § 87(2)(b)'s claim that both of his accompanying officers refused to provide him with their identifications, as they were the only two who were present with him at the hospital.

Disputed and Undisputed Facts

It is **undisputed** that members of the Bronx Narcotics 81st Precinct field team executed a search warrant inside § 87(2)(b) in Brooklyn on October 5, 2009. At least one member of the team (Det. Savage) had his weapon drawn during the execution. § 87(2)(b) and § 87(2)(b) were arrested and narcotics were recovered pursuant to their arrests. § 87(2)(b)'s vehicle was searched and vouchered as evidence. § 87(2)(b) and § 87(2)(b) were strip-searched following their arrests. Several facts are **in dispute**, namely the civilians' actions outside § 87(2)(b) prior to their arrests, whether any officers pointed their guns at § 87(2)(b) and § 87(2)(b)'s heads, whether they used any forms of physical force or profane language against § 87(2)(b) and § 87(2)(b) and whether any of them refused to provide their identification to § 87(2)(b). The manner of § 87(2)(b)'s strip-search is disputed, as is whether narcotics were discovered in § 87(2)(b)'s rectum during the strip-search. The circumstances of § 87(2)(b)'s apprehension and subsequent strip-search, along with whether any officers refused to show him a copy of the relevant search warrant, are disputed. The precinct § 87(2)(b) was transported to is disputed, as is whether any individual named § 87(2)(b) was apprehended and strip-searched.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegations Not Pleaded

The stops, frisks and searches of § 87(2)(b) and § 87(2)(b) are not being pleaded, as the officers approached them with probable cause to arrest them. No force allegations are being pleaded with regard to § 87(2)(b) being pushed against his car while being handcuffed, as this force was minimal, did not cause him any injuries, and was used to effect his arrest. As § 87(2)(b) granted the officers permission to search his car before they did so, and because

§ 87(2)(b) s vehicle would have been searched incident to his arrest, no vehicle search allegations are being pleaded. § 87(2)(b) s strip-search is not being pleaded either; while it was noted in the command log, no civilians in this case made the allegation that he was strip-searched. No strip-search allegations are being pleaded against Det. Payne, Sgt. Killilea or Det. Delumen because the investigation is crediting the officers' account that it was properly conducted under Capt. LiPetri's authority.

Allegation A: Abuse of Authority: Officers entered and searched § 87(2)(b) § 87(2)(b) in Brooklyn.
It is undisputed that officers entered and searched § 87(2)(b) § 87(2)(b). They did so pursuant to a lawful search warrant, obtained by Det. Payne. § 87(2)(g)

Allegation B: Force: Officers pointed their guns at § 87(2)(b) and § 87(2)(b)
The officers interviewed denied § 87(2)(b)'s allegation that they pointed their weapons at him and § 87(2)(b) when they approached them outside § 87(2)(b) § 87(2)(g). *NYPD v. Gliner* states, "The policy of the [New York Police] Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety" (encl. 1a-c) § 87(2)(g), § 87(2)(e), § 87(2)(f)

Allegation C: Discourtesy: Officers spoke obscenely to § 87(2)(b) and § 87(2)(b)

Allegation E: Force: An officer tightly handcuffed § 87(2)(b)
§ 87(2)(b) could not conclusively identify the officers who spoke profanely toward him and § 87(2)(b). He also failed to identify the officer who tightened his handcuffs. All of the officers interviewed denied participating in these allegations. § 87(2)(b)'s photo identification of Det. Delumen was inaccurate, as he claimed that Det. Delumen was one of only two officers who had substantive interaction with him (the investigation determined that he interacted with significantly more than two officers). § 87(2)(g)

Allegation D: Force: An officer used physical force against § 87(2)(b)

Despite the undersigned's efforts to contact and obtain a statement from § 87(2)(b), he was unavailable to this investigation. § 87(2)(g)

Allegation F: Abuse of Authority: An officer refused to show a search warrant to § 87(2)(b)

Allegation K: Abuse of Authority: Officers strip-searched § 87(2)(b)

§ 87(2)(g)

Allegation G: Abuse of Authority: Capt. Michael LiPetri authorized the strip-search of § 87(2)(b)

Allegation J: Abuse of Authority: Lt. Joseph Santangelo authorized the strip-search of § 87(2)(b)

§ 87(2)(g)

Per the NYPD Patrol Guide, section procedure 208-05, "A strip search will be utilized when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods[frisk/field search and search at police facility].... A strip search will be conducted by a member of the same sex as the arrested person in a secure area in utmost privacy and with no other arrestee present. It should not be necessary to touch the subject's body, except for the examination of the hair... If a strip search is conducted, such information will be documented in the command log" (encl. 2a-b). The

§ 87(2)(g)

Allegation H: Abuse of Authority: Det. James Delumen refused to provide his name and shield number to § 87(2)(b)

Allegation I: Abuse of Authority: Sgt. Shane Killilea refused to provide his name and shield number to § 87(2)(b)

Neither Sgt. Killilea nor Det. Delumen admitted to refusing to identify themselves to § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: